

OPEN MEETING ITEM
ORIGINAL

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



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ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DATE: June 23, 2005

DOCKET NO: SW-02390A-05-0097

JUN 23 2005

TO ALL PARTIES:

DOCKETED BY	RS
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Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Opinion and Order on:

SOUTHLAND SANITATION CO.

(DELETION OF PORTION OF CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JULY 5, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JULY 12 and 13, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For more information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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AZ CORP COMMISSION
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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 SOUTHLAND SANITATION CO. FOR
10 DELETION OF PART OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 WASTEWATER SERVICE IN COCHISE
13 COUNTY.

DOCKET NO. SW-02390A-05-0097

14 DECISION NO. _____

15 **OPINION AND ORDER**

16 DATE OF HEARING:

June 16, 2005

17 PLACE OF HEARING:

Tucson, Arizona

18 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

19 APPEARANCES:

Sidney Mendelsohn, Jr., on behalf of
Southland Sanitation Co.; and

David Ronald, Commission Legal
Division for the Utilities Division.

20 **BY THE COMMISSION:**

21 Having considered the entire record herein and being fully advised in the premises, the
22 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

23 **FINDINGS OF FACT**

24 1. On February 14, 2005, Southland Sanitation Company, ("Southland" or "Company")
25 filed an application with the Commission requesting to delete a portion of its Certificate of
26 Convenience and Necessity ("CC&N") to provide sewer service in Cochise County.

27 2. Southland is an Arizona C corporation authorized by Decision No. 52546 (October 22,
28 1981) to provide wastewater service in a portion of Cochise County in and adjacent to the City of
Sierra Vista.

1 3. Southland's service area currently encompasses 880 acres and it serves approximately
2 295 sewer customers.

3 4. By its Application, Southland requests authorization to delete approximately 111 acres
4 of its current CC&N. The legal description of the area to be deleted is set forth in Exhibit A hereto
5 and incorporated by reference.

6 5. The City of Sierra Vista has agreed to serve a new development in the proposed
7 deletion area.

8 6. Southland's sister company, Southland Utilities Company, Inc. is certificated to
9 provide water service in the same CC&N area and will retain its CC&N to provide water service in
10 the affected area.

11 7. Pursuant to A.A.C. R14-2-610.C, the Application was deemed sufficient on March 17,
12 2005.

13 8. On March 24, 2005, the Commission issued a Procedural Order that set the matter for
14 hearing in Tucson, Arizona on June 16, 2005 and required the Company to publish the notice of the
15 hearing and send a copy to all property owners in the area to be deleted.

16 9. On April 19, 2005, Southland filed an Affidavit of Publication from the *Bisbee*
17 *Observer*, a newspaper of general circulation in the Company's service area, and a certificate of
18 mailing that indicates the Company mailed the notice to property owners as required by the March
19 24, 2005 Procedural Order.

20 10. On May 18, 2005, the Commission's Utility Division Staff ("Staff") filed a Staff
21 Report recommending approval of the Application.

22 11. The Commission has not received any comments on the application nor requests for
23 intervention.

24 12. The hearing convened as scheduled on June 16, 2005, before a duly authorized
25 Administrative Law Judge.

26 13. The parcel to be deleted is planned to be developed by D.R. Horton Homes for
27 residential use.

28

1 14. On January 27, 2005, the City of Sierra Vista approved annexation of the deletion
2 parcel. The City has wastewater facilities bordering the subject parcel, and development of
3 wastewater facilities within the parcel would be more efficiently accomplished by the City than by
4 Southland.

5 15. Currently Southland has no customers within the proposed deletion area. The
6 Company has not received any customer deposits for service in the deletion area.

7 16. Approving the application will bifurcate Southland's CC&N. Deleting the 111 acres
8 that are the subject of this application will result in approximately 70 acres within Southlands service
9 area being separated from the main portion of its service territory. Southland does not currently serve
10 any customers in the affected 70 acres.

11 17. Staff expressed concern that future service by Southland in the non-contiguous parcel
12 could result in redundant facilities within utility easements, and that service within the 70 acres by
13 Southland might be uneconomical in comparison with service by the City of Sierra Vista. Staff
14 believes that although Southland could obtain an easement to serve the 70 acres, this non-contiguous
15 parcel would be better served by the City. Thus, Staff recommends that the Company work with the
16 City to obtain an agreement that the City will serve the non-contiguous parcel. Staff further
17 recommends that Southland be required to file an application to delete the non-contiguous 70 acres
18 by December 31, 2006, or a detailed explanation discussing why such a filing could not be
19 accomplished.

20 18. Southland reported that it is in current negotiations with the City to acquire all of
21 Southland's wastewater facilities, and not just the non-contiguous 70 acres. It did not object to filing
22 either an application to delete the non-contiguous section, or a report keeping the Commission
23 informed of the status of its negotiations.

24 19. At the time the Staff Report was filed, the Arizona Department of Environmental
25 Quality ("ADEQ") notified the Commission that Southland was not in compliance with ADEQ
26 regulations. There was a pending Notice of Violation ("NOV") regarding testing and monitoring
27 issued on December 17, 2004.
28

20. Staff received a compliance status report from ADEQ that the City of Sierra Vista Wastewater Treatment Plant was in total compliance with ADEQ regulations.

21. The Commission's Utilities Division Compliance Section reports that there are no current delinquencies for the Company.

22. In a letter dated June 13, 2005, ADEQ reports that in an inspection performed on June 9, 2005, no deficiencies were found in the operation and maintenance of the Southland wastewater system and the Company is currently in compliance with ADEQ regulations.

CONCLUSIONS OF LAW

1. Southland is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over Southland and the subject matter of its Application.

3. Notice of the application was given in accordance with the law.

4. There is a need for wastewater service in the proposed deletion area.

5. The City of Sierra Vista is a fit and proper entity to operate a wastewater system within the proposed deletion area.

6. The recommendation set forth in Findings of Fact No. 17 is reasonable and should be adopted.

7. It is in the public interest for the proposed deletion and for the City of Sierra Vista to provide wastewater service within the area.

ORDER

IT IS THEREFORE ORDERED that the application of Southland Sanitation Company to delete the area described in Exhibit A is approved and Southland Sanitation Company's Certificate of Convenience and Necessity for the area described in Exhibit A shall be canceled without further Order of the Commission.

...

...

1 IT IS FURTHER ORDERED that Southland Sanitation Company shall continue to keep the
2 Commission informed on the status of its discussions with the City of Sierra Vista to acquire its
3 Wastewater facilities and shall either file a detailed status report of its discussion or an Application to
4 delete the non-contiguous portion of its Certificate of Convenience and Necessity, if not its entire
5 Wastewater Certificate, by December 31, 2006.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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9

10	CHAIRMAN	COMMISSIONER
11		
12		
13	COMMISSIONER	COMMISSIONER COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this ____ day of _____, 2005.

20 BRIAN C. McNEIL
EXECUTIVE SECRETARY

21 DISSENT _____

23 DISSENT _____

24 JR:mlj

1 SERVICE LIST FOR: SOUTHLAND SANITATION COMPANY

2 DOCKET NO.: SW-02390A-05-0097

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4 Sidney Mendelsohn, Jr.
5 2730 E. Broadway, #100
6 Tucson, AZ 85716
Attorney for Applicant

7 Andrew Romo, President
8 Southland Sanitation Co.
2730 E. Broadway, #135
Tucson, AZ 85716

9 Christopher Kempley, Chief Counsel
Legal Division

10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
Phoenix, Arizona 85007

12 Ernest Johnson, Director
Utilities Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
Phoenix, Arizona 85007

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SOUTHLAND SANITATION, INC.
DOCKET NO. SW-02390A-05-0097
LEGAL DESCRIPTION OF AREA NORTH OF GOLDEN ACRES DRIVE
PARCEL

A part of Northeast Quarter of Section 19, Township 22 South, Range 21 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, described as follows:

BEGINNING at the Northwest Corner of Said Northeast Quarter,

THENCE South 00 degrees 10 minutes 04 seconds West a distance of 654.60 feet;

THENCE South 89 degrees 45 minutes 59 seconds East a distance of 1051.54 feet;

THENCE South 00 degrees 02 minutes 15 seconds East a distance of 548.42 feet;

THENCE South 89 degrees 44 minutes 43 seconds East a distance of 1590.04 feet;

THENCE North a distance of 1214.38 feet;

THENCE West a distance of 2640.00 feet to the POINT OF BEGINNING.

